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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Andrés RIVERA et al.

Group Art Unit: 1773

Application No.: 09/353,592

Examiner: S. Hon

Filed: July 15, 1999

Docket No.: 101054

For: APPLICATOR FOR A POLYMERIZABLE MONOMER

REQUEST FOR RECONSIDERATION

Director of the U.S. Patent and Trademark Office
Washington, D.C. 20231

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Sir:

In reply to the Office Action mailed January 19, 2001, applicants respectfully request reconsideration of the application in view of the following remarks.

Claims 1-30 are pending herein. By the Office Action, claims 1-14 and 16-23 are rejected under 35 U.S.C. §102(e); claim 15 is rejected under 35 U.S.C. §103(a); and claims 1-14 and 16-23 [sic, claims 24-30] are rejected under 35 U.S.C. §103(a). Applicants respectfully request reconsideration of these rejections.

Claims 1-14 and 16-23 are rejected under 35 U.S.C. §102(e) as being anticipated by Leung. The Office Action asserts that Leung teaches all of the limitations of the claimed invention. Applicants respectfully traverse this rejection.

Independent claim 1 is directed to an applicator for dispensing a polymerizable or cross-linkable material, comprising: an outer container; an inner container disposed within said outer container, said inner container containing a polymerizable or cross-linkable

material; and a rate modifier for said polymerizable or cross-linkable material disposed on an outer surface of said inner container. Leung does not anticipate the claims invention, because Leung fails to disclose, implicitly or explicitly, each and every limitation of the claimed invention. In particular, Leung fails to disclose the limitation of independent claim 1 that a rate modifier for the polymerizable or cross-linkable material is disposed on an outer surface of said inner container.

Similar to the claimed invention, Leung is directed to an applicator for dispensing a synthetic or semi-synthetic polymerizable or cross-linkable monomer material. According to Leung, the applicator comprises an applicator tip comprising a solid support having a polymerization or cross-linking accelerator or initiator for the synthetic or semi-synthetic monomer material disposed thereon or therein, and a container body. The synthetic or semi-synthetic monomer material is located in the container body in a non-contacting relationship with the tip prior to dispensing the material. See Leung at Abstract and claim 1. For example, an embodiment of the disclosed applicator is shown in Leung Figure 3. According to Figure 3, the applicator of Leung includes an outer container 200 and an inner container 400 that contains an amount of monomer material 300 therein. According to this embodiment, the applicator tip 500 has the polymerization or cross-linking accelerator or initiator for the monomer material disposed therein or thereon. See also Leung at column 7, line 66 to column 8, line 4.

Leung also discloses several modification of the disclosed applicator. For example, Leung discloses that the polymerization or cross-linking accelerator or initiator can be located in the applicator at a position other than being loaded in or on the applicator tip. For example, at column 10, lines 43-53, Leung teaches that the accelerator or initiator may be stored in a separate compartment within the outer container 200 separate from the

polymerizable or cross-linkable monomer material. Alternatively, in the same passage, Leung discloses that "the applicator container may be lined or coated with the initiator ... for example, in the device of FIG. 3, the initiator may be coated on the internal surface of body 200."

Although Leung discloses these modifications of the disclosed applicator, Leung does not teach all of the limitations of the claimed invention. In particular, Leung at most discloses that the accelerator or initiator may be lined or coated on the internal surface of the outer container 200. However, this disclosure is entirely different from the limitation of independent claim 1 that the rate modifier for the polymerizable or cross-linkable material is disposed on an outer surface of the inner container. For example, with reference to Figure 1 of the present application, the rate modifier 50 is lined or coated on the outer surface of the inner container 40.

Accordingly, Leung fails to disclose each and every limitation of the claimed invention, and therefore cannot anticipate the claimed invention. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 15 is rejected under 35 U.S.C. §103(a) as having been obvious over Leung. The Office Action argues that one of ordinary skill in the art would have known that various siloxanes and silicones could be used, based on the disclosed materials of Leung. Applicants respectfully traverse this rejection.

Claim 15, which depends from claim 1 discussed above, specifies that the polymerizable or cross-linkable material is an inorganic material selected from the group consisting of siloxanes, silicones, polysulfides, and polyphosphazenes. Accordingly, claim 15 includes all of the limitations of independent claim 1, including the above-described

limitation that the rate modifier for the polymerizable or cross-linkable material is disposed on an outer surface of the inner container of the recited applicator.

For all of the reasons described above, Leung fails to disclose the instant limitation of the claimed invention that the rate modifier for the polymerizable or cross-linkable material is disposed on an outer surface of the inner container. Furthermore, nowhere does Leung teach or suggest that the various disclosed embodiments of an applicator could or should be modified so as to arrive at the claimed invention. That is, although Leung discloses that the accelerator or initiator may be loaded on or in the applicator tip, or may be coated on an inner surface of the outer container, Leung does not teach or suggest modifying either of these embodiments so as to disposed the rate modifier on an outer surface of the inner container.

Accordingly, because Leung does not teach or suggest this important limitation of the claimed invention, one of ordinary skill in the art would not have been motivated to modify the disclose of Leung to arrive at the claimed invention. Claim 15 would thus not have been obvious to one of ordinary skill in the art over Leung. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1-14 and 16-23 [sic, claims 24-30]¹ are rejected under 35 U.S.C. §103(a). The Office Action argues that it would have been obvious to one or ordinary skill in the art to have worked out the claimed steps of the process based on the disclosure of Leung. Applicants respectfully traverse this rejection.

Independent claim 24 is directed to a method of making an applicator for dispensing a polymerizable or cross-linkable material, comprising "sealing a polymerizable or cross-

¹ In paragraph 4 of the Office Action, the Office Action indicates that "claims 1-14, 16-23" are rejected under §103(a). However, because the rejection refers to "the claimed steps of the process" Applicants assume that the rejection is made with respect to method claims 24-30. Clarification in the next Patent Office communication is requested.

linkable material in an inner container; applying a rate modifier for the polymerizable or cross-linkable material to an outer surface of said inner container; and disposing the inner container within an outer container having dispensing means for dispensing the polymerizable or cross-linkable material from the applicator. Claim 28, which depends from claim 1, specifies a method of applying a polymerizable or cross-linkable material to a substrate, comprising: providing an applicator according to claim 1; opening said inner container of said dispenser to contact said polymerizable or cross-linkable material with said rate modifier; and dispensing said polymerizable or cross-linkable material from said outer container. Such methods would not have been obvious over the disclosure of Leung, at least because Leung does not teach or suggest each and every limitation of the claimed invention.

With respect to claim 28, and dependent claims 29-30, Leung does not teach or suggest the specific applicator of claim 1 for all of the reasons described above. Likewise, Leung does not teach or suggest modifying the disclosed applicator in any way so as to arrive at the claimed invention. Accordingly, because Leung does not teach or suggest the applicator of instant claim 1, Leung cannot teach or suggest the claimed method of applying a polymerizable or cross-linkable material to a substrate using such an applicator. Claims 28-30 thus define patentable subject matter of Leung.

Claim 24 is also patentable over Leung. In particular, similar to claim 1 discussed above, Leung does not teach or suggest the instant claim limitation of applying a rate modifier for the polymerizable or cross-linkable material to an outer surface of the inner container. As discussed above, Leung discloses various embodiments of an applicator for applying a monomer material. Leung also discloses various methods for using the applicator to apply the monomer material. In the disclosed applicator, the accelerator or initiator for the monomer material is described as being loaded in or on an applicator tip, or being coated on

an inner surface of the outer container of the applicator. However, Leung fails to teach or suggest applying the rate modifier (initiator or accelerator) to an outer surface of the inner container.

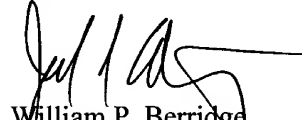
In order to have rendered obvious the claimed invention, the cited reference must teach or suggest each and every limitation of the claimed invention. However, in the present case, Leung fails to teach or suggest modifying the disclosed applicators so as to arrive at the claimed invention. That is, Leung fails to teach or suggest a method of making an applicator comprising the step of applying a rate modifier for the polymerizable or cross-linkable material to an outer surface of the inner container. Nowhere does Leung teach or suggest this limitation, nor does Leung teach or suggest that a method of making the applicator could or should be modified so as to arrive at the claimed invention.

Accordingly, Leung fails to teach or suggest each and every limitation of the claimed invention. The claimed invention would thus not have been obvious over the disclosure of Leung. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the foregoing remarks, Applicants respectfully submit that the application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned Attorney at the telephone number listed below.

Respectfully submitted,



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Date: April 2, 2001

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